

E-329, 118/SA-89-1019 REQUIRING ADDITIONAL FILINGS

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Darrel L. Peterson	Chair
Cynthia A. Kitlinski	Commissioner
Norma McKanna	Commissioner
Robert J. O'Keefe	Commissioner
Patrice Vick	Commissioner

In the Matter of a Petition by the City of Willmar to Provide Interim Service to Areas Annexed by Ordinance Numbers 842 and 891, Known as the Nelson International Area, Within the City of Willmar and to Adjust Service Territory Maps

ISSUE DATE: FEBRUARY 8, 1990

DOCKET NO. E-329, 118/SA-89-1019

ORDER REQUIRING ADDITIONAL FILINGS

PROCEDURAL HISTORY

On November 14, 1989 the City of Willmar filed a petition under Minn. Stat. § 216B.44 (1988), requesting authority to provide interim service to certain areas of the City lying within the assigned service area of Kandiyohi Cooperative Power Association (Kandiyohi or the co-op). The City had earlier filed a petition stating its intention to acquire this portion of Kandiyohi's service territory and asking the Commission to determine the compensation due Kandiyohi. The Commission referred the issue of compensation to the Office of Administrative Hearings for contested case proceedings under docket number E-329, 118/SA-89-448.

On November 29, 1989 the City filed its First Amended Petition for Interim Service Order and Adjustment of Service Territory Maps, notice of motion, and motion seeking authority to provide temporary interim service to a construction site, together with supporting affidavit and memorandum.

Kandiyohi opposed the City's request for interim service rights. The Department of Public Service (the Department) intervened in the matter and also opposed granting interim service rights to the City.

The parties reached an agreement on temporary interim service to the construction site, and the remaining issues came before the Commission on January 10, 1990. Due to time constraints, the meeting was continued and resumed on January 31, 1990. Between the two meetings, on January 29, 1990, the City filed its Second Amended Petition, together with motion for leave to file Second Amended Petition, supporting affidavits, and offers of proof.

## FINDINGS AND CONCLUSIONS

The threshold issue in this case is whether there are material facts in dispute. If there are, the Commission must refer the matter to the Office of Administrative Hearings for contested case proceedings. Minn. Stat. § 14.57 et seq. (1988).

The City contends there are material facts in dispute. The facts alleged through the First Amended Petition, however, have been conclusory and would not support granting the City the relief it seeks.

The co-op and the Department contend there are no disputed material facts, that all contested issues are legal or policy issues which can be resolved by the Commission without formal evidentiary proceedings.

The Commission finds it needs more information to determine whether or not material facts are in dispute. The following facts are relevant to determining interim service rights and should be provided by the parties in affidavit form:

1. A list and description of the facilities each utility currently has in place to serve the area;
2. A list and description of all property developments currently planned or in progress in the area, including a description of each development's electric service needs;
3. A description of the capacity of all facilities listed and described in response to question 1, and an analysis of their ability to serve all developments described in response to question 2;
4. A description of the nature and cost of any new facilities necessary to serve new customers in the area;
5. A detailed description of the impact on the orderly development, improvement, and extension of the City's electric system if the co-op extends service to new customers while compensation is being determined;
6. An itemization of the costs the City expects to incur if the co-op extends service to new customers while compensation is being determined;
7. A description of the degree to which the co-op's and the City's electric systems are compatible, a description of the measures the City will have to take to integrate its facilities with those it will acquire from the co-op, and an itemization of all associated expenses.
8. A detailed description of any safety problems on either utility's system which should be taken into account in awarding interim service rights.

The City's Second Amended Petition and accompanying documents provide much of the required information, in verified form. The Commission will therefore accept the Second Amended Petition, contingent upon receipt of a supplementary filing containing the remaining information within 15 days. The co-op shall make its filing addressing the above questions and responding to the City's filing within 20 days thereafter. All parties will then have ten days to file final comments.

The City also requested a continuance at the January 10 meeting, which continuance is denied in favor of the procedure outlined above.

### ORDER

1. The City's Second Amended Petition is accepted, contingent upon receipt of a supplementary filing within 15 days of the date of this Order, providing any information listed above which is not provided in the Second Amended Petition.
2. The co-op shall file affidavits providing the information listed above, together with its initial comments on the City's filing, within 20 days of the City's supplementary filing.
3. All parties shall file final comments, identifying any material facts believed to be in dispute, within 10 days of the co-op's filing.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Lee Larson  
Acting Executive Secretary

(S E A L)